

1  
2  
3  
4  
5  
6  
7 EOLAS TECHNOLOGIES  
8 INCORPORATED,  
9 Plaintiff,  
10 v.  
11 AMAZON.COM INC,  
12 Defendant.

Case No.17-cv-03022-JST (JSC)

**ORDER RE: PATENT PROSECUTION  
BAR DISCOVERY DISPUTE**

Re: Dkt. Nos. 403, 407

12  
13 Discovery in this action has been referred to the undersigned magistrate judge. This  
14 includes Defendant Amazon's Inc., motion for an order to show cause regarding Plaintiff's  
15 counsel McKool Smith's alleged violation of a patent prosecution bar. (Dkt. No. 262.) The district  
16 court previously ruled that the bar expired on October 20, 2014. (Dkt. No. 387.) Plaintiff was then  
17 ordered to: (1) lodge with the Court a BATES-labeled, unredacted copy of the withheld  
18 document(s) for *in camera* review; (2) produce to Defendants and lodge with the Court, a BATES-  
19 labeled, redacted copy of the withheld document(s), with redactions narrowly limited to only the  
20 content Eolas contends is protected by privilege; (3) produce to Defendants and file with the Court  
21 a privilege log identifying each withheld document or document with redacted contents; and (4)  
22 produce to Defendants and file with the Court a list of counsel with identifying information. (Dkt.  
23 No. 403.) Plaintiff filed a notice of compliance with this order and provided the Court with a flash  
24 drive for *in camera* review. (Dkt. No. 406.) The district court then referred this (and any other)  
25 dispute to the undersigned for resolution. (Dkt. No. 407.)

26 To help facilitate this Court's review of this matter, the Court orders as follows:

27 1. Plaintiff shall provide the Court with a paper chambers copy of the complete *in camera*  
28 submission which shall comply with this Court's Standing Order with regard to submissions over

1 a certain size, i.e., it shall be three-hole punched, placed in binders, and organized as is appropriate  
2 with tabs. Plaintiff shall also provide the Court with a paper chambers copy of its privilege log.  
3 These submissions should be double-sided.

4 2. Amazon's motion for an order to show cause references numerous emails which it  
5 contends suggest that McKool Smith violated the patent prosecution bar. (Dkt. No. 262 at 8-14.)  
6 However, the date-stamp numbers listed in the motion do not appear to match the date-stamp  
7 numbers on Plaintiff's privilege log. Accordingly, on or before November 22, 2017, Amazon  
8 shall file a short statement which identifies the emails, using the date-stamp number on Plaintiff's  
9 privilege log, that Amazon believes suggest that McKool Smith violated the patent prosecution  
10 bar. Plaintiff may file a short statement responding to Amazon's statement by November 29,  
11 2017. The Court will then notify the parties regarding whether a hearing is necessary.

12  
13 **IT IS SO ORDERED.**

14 Dated: November 16, 2017

15  
16   
17 JACQUELINE SCOTT CORLEY  
18 United States Magistrate Judge